



The State of New Hampshire
Department of Environmental Services

Clark B. Freise, Assistant Commissioner



January 24, 2017

The Honorable Chris Christensen, Chair
House Resources, Recreation and Development Committee
Legislative Office Building, Room 305
Concord, NH 03301

RE: HB485, AN ACT relative to standards for emerging contaminants in drinking water

Dear Chairman Christensen and Members of the Committee:

Thank you for the opportunity to comment on HB 485. This bill proposes to make amendments to RSA 485 - Safe Drinking Water Act to require the New Hampshire Department of Environmental Services (NHDES) to adopt rules relative to standards for emerging contaminants in drinking water. The bill would require NHDES to use the most conservative approach available relative to the exposure of children and other vulnerable populations to emerging contaminants in drinking water when establishing drinking water standards for emerging contaminants. The Department appreciates the intent of the bill, but provides the following information to explain why NHDES does not believe it is necessary.

NHDES has sufficient authority to adopt drinking water and groundwater standards for traditional and emerging contaminants that protect the public health, including children and other susceptible populations. To establish these standards, New Hampshire, like most states, relies on the U.S. Environmental Protection Agency (EPA). This includes both EPA's Office of Science and Technology that performs research and risk assessment to establish health advisories (i.e. levels that would not cause harm) for drinking water contaminants and the Office of Groundwater and Drinking Water that uses the health advisories along with other factors, such as ability and cost to treat water, to establish maximum contaminant levels (MCLs) that public water systems must meet. Although we have great confidence in EPA, we also maintain the capability through our Bureau of Health Risk Assessment to carefully review EPA's health advisories or MCLs prior to their adoption to ensure that they are in keeping with accepted scientific practices and they ensure protection of children and vulnerable populations. For example, NHDES recently completed such a review relative to certain perfluorinated compounds (PFOA and PFOS). Also, through the rulemaking required to adopt standards we will always consider and research any new studies or scientific information that we identify or that is brought to our attention. Standing up an enhanced robust health risk assessment unit capable of performing the primary research required to develop unilateral state specific standards "using the most conservative approach" would take significant

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resources. More importantly, we believe that implementation of such a state-based approach to drinking water standards is unwarranted, given the expertise and practices currently in place at EPA and the oversight process NHDES follows to assess their findings.

Health advisories only consider what level in drinking water will cause an adverse effect based on the available science. The promulgation of a national MCL for contaminants that cause harm is a much lengthier and involved process that also looks at occurrence, ability to limit impact via restrictions on public drinking water, ability to treat contaminants, and the cost to do so. For example, the MCL associated with arsenic in drinking water exceeds (is less restrictive than) the health-based limit because it is not fiscally or technically possible to achieve optimal arsenic concentrations in all water served by water systems in New Hampshire. However, in such cases NHDES provides residents a substantial amount of technical assistance on how they can apply additional in-home treatment to remove contaminants to non-detectable levels for arsenic and many other traditional and emerging contaminants. To the extent that this bill would require that only the most conservative and not necessarily peer reviewed, or generally accepted, health study findings be considered when state-specific standards are being set and only the most conservative assumptions related to dose, source contribution, intake and body weight be used in calculating these standards, this legislation could result in costly and, sometimes, unachievable requirements for municipalities, non-municipal water systems, and others that are responsible for meeting these standards. Accordingly, NHDES respectfully suggests that a fiscal note be prepared for this legislation to fully understand what impact it may have.

In summary, we believe our current process for establishing standards for public drinking water and groundwater is protective of children and vulnerable populations and takes into account all factors to be protective of the public's health.

Thank you again for the opportunity to comment on this proposed legislation. If you have questions or need additional information, please contact Sarah Pillsbury, Drinking Water and Groundwater Bureau Administrator (Sarah.Pillsbury@des.nh.gov or 271-1168).

Sincerely,



Clark B. Freise

Assistant Commissioner

cc: Representatives Messmer, Bean, Malloy, T. Le, Cushing, Berrien, Gordon, Marsh
Senators Bradley, Feltes, Fuller Clark, Innis, Soucy